

§ 300.145

before giving the LEA reasonable notice and an opportunity for a hearing under § 76.401(d) of this title.

(Authority: 20 U.S.C. 1413(a)(8))

(Approved by the Office of Management and Budget under control number 1820-0030)

[57 FR 44798, Sept. 29, 1992, as amended at 58 FR 13528, Mar. 11, 1993]

§ 300.145 Prohibition of commingling.

Each State plan must provide assurance satisfactory to the Secretary that funds provided under part B of the Act are not commingled with State funds.

(Authority: 20 U.S.C. 1413(a)(9))

NOTE: This assurance is satisfied by the use of a separate accounting system that includes an audit trail of the expenditure of the part B funds. Separate bank accounts are not required. (See 34 CFR 76.702 (Fiscal control and fund accounting procedures).)

§ 300.146 Annual evaluation.

Each State plan must include procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of children with disabilities, including evaluation of IEPs.

(Authority: 20 U.S.C. 1413(a)(11))

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§ 300.147 State advisory panel.

Each State plan must provide that the requirements of §§ 300.650-300.653 are met.

(Authority: 20 U.S.C. 1413(a)(12))

§ 300.148 Policies and procedures for use of part B funds.

Each State plan must set forth policies and procedures designed to ensure that funds paid to the State under part B of the Act are spent in accordance with the provisions of part B, with particular attention given to sections

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611(b), 611(c), 611(d), 612(2), and 612(3) of the Act.

(Authority: 20 U.S.C. 1413(a)(1))

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[57 FR 44798, Sept. 29, 1992, as amended at 58 FR 13528, Mar. 11, 1993]

§ 300.149 Description of use of part B funds.

(a) *State allocation.* Each State plan must include the following information about the State's use of funds under § 300.370 and § 300.620:

(1) A list of administrative positions, and a description of duties for each person whose salary is paid in whole or in part with those funds.

(2) For each position, the percentage of salary paid with those funds.

(3) A description of each administrative activity the SEA will carry out during the next school year with those funds.

(4) A description of each direct service and each support service that the SEA will provide during the next period covered by the State plan with those funds, and the activities the State advisory panel will undertake during that period with those funds.

(b) *Local educational agency allocation.* Each State plan must include—

(1) An estimate of the number and percent of LEAs in the State that will receive an allocation under this part (other than LEAs that submit a consolidated application);

(2) An estimate of the number of LEAs that will receive an allocation under a consolidated application;

(3) An estimate of the number of consolidated applications and the average number of LEAs per application; and

(4) A description of direct services that the SEA will provide under § 300.360.

(Authority: 20 U.S.C. 1412(6))

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[57 FR 44798, Sept. 29, 1992, as amended at 58 FR 13528, Mar. 11, 1993]

§ 300.150 State-level nonsupplanting.

Each State plan must provide assurance satisfactory to the Secretary that funds provided under this part will be

used so as to supplement and increase the level of Federal (other than funds available under this part), State, and local funds—including funds that are not under the direct control of the SEA or LEAs — expended for special education and related services provided to children with disabilities under this part and in no case to supplant those Federal (other than funds available under this part), State, and local funds unless a waiver is granted in accordance with § 300.589.

(Authority: 20 U.S.C. 1413(a)(9))

NOTE: This requirement is distinct from the LEA nonsupplanting provision already contained in these regulations at § 300.230. Under this State-level provision, the State must assure that part B funds distributed to LEAs and IEUs will be used to supplement and not supplant other Federal, State, and local funds (including funds not under the control of educational agencies) that would have been expended for special education and related services provided to children with disabilities in the absence of the part B funds. The portion of part B funds that are not distributed to LEAs or IEUs under the statutory formula (20 U.S.C. 1411(d)) are not subject to this nonsupplanting provision. See 20 U.S.C. 1411(c)(3). States may not permit LEAs or IEUs to use part B funds to satisfy a financial commitment for services that would have been paid for by a health or other agency pursuant to policy or practice but for the fact that these services are now included in the IEPs of children with disabilities.

(H.R. Rep. No. 860, 99th Cong., 21–22 (1986))

§ 300.151 Additional information if the State educational agency provides direct services.

If an SEA provides FAPE for children with disabilities or provides them with direct services, its State plan must include the information required under §§ 300.226, 300.227, 300.231, and 300.235.

(Authority: 20 U.S.C. 1413(b))

§ 300.152 Interagency agreements.

(a) Each State plan must set forth policies and procedures for developing and implementing interagency agreements between—

- (1) The SEA; and
- (2) All other State and local agencies that provide or pay for services required under this part for children with disabilities.

(b) The policies and procedures referred to in paragraph (a) of this section must—

(1) Describe the role that each of those agencies plays in providing or paying for services required under this part for children with disabilities; and

(2) Provide for the development and implementation of interagency agreements that—

(i) Define the financial responsibility of each agency for providing children with disabilities with FAPE;

(ii) Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and

(iii) Establish procedures under which LEAs may initiate proceedings in order to secure reimbursement from agencies that are parties to the agreements or otherwise implement the provisions of the agreements.

(Authority: 20 U.S.C. 1413(a)(13))

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[57 FR 44798, Sept. 29, 1992, as amended at 58 FR 13528, Mar. 11, 1993]

§ 300.153 Personnel standards.

(a) As used in this part:

(1) *Appropriate professional requirements in the State* means entry level requirements that—

(i) Are based on the highest requirements in the State applicable to the profession or discipline in which a person is providing special education or related services; and

(ii) Establish suitable qualifications for personnel providing special education and related services under this part to children and youth with disabilities who are served by State, local, and private agencies (see § 300.2).

(2) *Highest requirements in the State applicable to a specific profession or discipline* means the highest entry-level academic degree needed for any State approved or recognized certification, licensing, registration, or other comparable requirements that apply to that profession or discipline.

(3) *Profession or discipline* means a specific occupational category that—

(i) Provides special education and related services to children with disabilities under this part;